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**INDEPENDENT CABLE &
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October 13, 1998

Ms. Magalie Salas
Secretary
Federal Communications Commission
1919 M Street, NW
Room 222
Washington, DC 20554

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**RE: Ex Parte Presentation in FCC-IB Docket No. 98-172 -- NPRM Proposing
Redesignation of 18 GHz Band**

Dear Madam Salas:

On October 5, 1998, the undersigned telephoned Ms. Eloise Gore in the Cable Services Bureau regarding the referenced Notice of Proposed Rulemaking. In the conversation I expressed ICTA views regarding the referenced NPRM. Thereafter, I transmitted by telecopier a message which includes more details than expressed in the telephone conversation. The message was as follows:

The NPRM

The FCC recently released a Notice of Proposed Rulemaking (NPRM) seeking comments on a proposal to make terrestrial microwave systems, including those utilized by private cable operators for video, secondary to satellite downlinks in 250 MHz of spectrum between 18.3 GHz and 18.55 GHz. In the NPRM the Commission indicated it intends to accommodate all existing users in the band. However, it appears that factual misconceptions reflected in the NPRM have led the Commission to propose a band segmentation plan that would potentially preempt private cable use of more than half of its currently utilized spectrum. The NPRM would make geostationary orbit, fixed satellite service (GSO/FSS) primary in the 18.3-18.55 GHz band and would permit blanket licensing in favor of that service. Private cable today enjoys the band between

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18.142 - 18.580 GHz. Although existing stations and stations that had been applied for as of September 18, 1998 will retain co-primary status in the 18.3 - 18.55 GHz band, application for stations filed after that date will not be afforded grandfathered status under the proposed plan and blanket licensing by GSO/FSS would make it all but impossible to ensure future spectrum availability in that band.

The Commission's View

As best we can tell, the International Bureau, which authored the NPRM, regards all spectrum between 17.7 and 19.78 GHz as interchangeable and equally suited to all terrestrial services (NPRM ¶8,27). Consistent with that view, the NPRM fails to refer to the current 440 MHz (18.142-18.580 GHz) limit on spectrum available to private fixed wireless operators for video delivery. There simply is no other authority for video transmission in any other portion of that spectrum range. In footnote 48 the NPRM incorrectly states that SMATV operators offer less program than franchise operators and therefore only need 440 MHz of contiguous spectrum.

As a result, the Commission proposes to "accommodate" the spectrum needs of the terrestrial services by adopting a band segmentation plan that includes a primary allocation for GSO/FSS services at 18.3 - 18.5 GHz. NPRM ¶29. Further, as noted above, the Commission has proposed blanket satellite earth station licensing in this band, which will make the 18.3 - 18.55 GHz band virtually unusable for secondary terrestrial fixed services.

Although this plan, if adopted, would severely limit private cable use of the current 18 GHz private cable band, it does not appear that this was the Commission's intent, or that the Commission understands that this is so. To the contrary, the Commission notes that the "proposed plan attempts to balance the needs of satellite services and terrestrial fixed services," and asserts that the "proposed plan can accommodate the needs of terrestrial fixed services." NPRM ¶31.

The Request for Comments

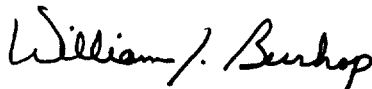
The Commission has asked for comment on "whether the above proposal adequately meets the spectrum requirements of both terrestrial fixed service and GSO/FSS" licenses. NPRM ¶34. The Commission also has asked for comment on some alternative plans that would add 100 MHz of shared spectrum at 18.3 - 18.4 GHz or make the entire 17.7 - 18.8 GHz band a shared-use band. NPRM ¶¶35,36. If the latter plan were adopted, the Commission has asked for comment on the feasibility of satellite and

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terrestrial sharing in this band. NPRM ¶¶37,38. Finally, the Commission has asked for comment on its grandfathering proposal. NPRM ¶40.

Sincerely,

A handwritten signature in cursive script that reads "William J. Burhop".

William J. Burhop
Executive Director

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